

of law form part of the record of the proceeding, as described in § 20.903.

Subpart H—Evidence

§ 20.801 General.

Any party may present his or her case or defense by oral, documentary, or demonstrative evidence; submit rebuttal evidence; and conduct any cross-examination that may be necessary for a full and true disclosure of the facts.

§ 20.802 Admissibility of evidence.

(a) The ALJ may admit any relevant oral, documentary, or demonstrative evidence, unless privileged. Relevant evidence is evidence tending to make the existence of any material fact more probable or less probable than it would be without the evidence.

(b) The ALJ may exclude evidence if its probative value is substantially outweighed by the danger of prejudice, by confusion of the issues, or by reasonable concern for undue delay, waste of time, or needless presentation of cumulative evidence.

§ 20.803 Hearsay evidence.

Hearsay evidence is admissible in proceedings governed by this part. The ALJ may consider the fact that evidence is hearsay when determining its probative value.

§ 20.804 Objections and offers of proof.

(a) Any party objecting to the admission or exclusion of evidence shall concisely state the grounds. A ruling on every objection must appear in the record. No party may raise an objection to the admission or exclusion of evidence on appeal unless he or she raised it before the ALJ.

(b) Whenever evidence is objected to, the party offering it may make an offer of proof, which must appear in the record.

§ 20.805 Proprietary information.

(a) The ALJ may limit introduction of evidence or issue such protective or other orders as in his or her judgment are consistent with the object of preventing undue disclosure of proprietary matters, including, among others, ones of a commercial nature.

(b) When the ALJ determines that information in a document containing proprietary matters should be made available to another party, the ALJ may direct the party possessing the document to prepare a non-proprietary summary or extract of it. The summary or extract may be admitted as evidence in the record.

(c) If the ALJ determines that a non-proprietary summary or extract is inadequate and that proprietary matters must form part of the record to avert prejudice to a party, the ALJ may so advise the parties and arrange access to the evidence for a party or representative.

§ 20.806 Official notice.

The ALJ may take official notice of such matters as could courts, or of other facts within the specialized knowledge of the Coast Guard as an expert body. When all or part of a decision rests on the official notice of a material fact not appearing in the evidence in the record, the decision must state as much; and any party, upon timely request, shall receive an opportunity to rebut the fact.

§ 20.807 Exhibits and documents.

(a) Each exhibit must be numbered and marked for identification by the party offering it. The original of each exhibit so marked, whether or not offered or admitted into evidence, must be filed and retained in the record of the proceeding, unless the ALJ permits the substitution of a copy. The party introducing each exhibit so marked shall supply a copy of the exhibit to the ALJ and to every party to the proceeding.

(b) Unless the ALJ directs otherwise, each party who would offer an exhibit upon direct examination shall make it available to every other party for inspection 15 days or more before the hearing. The ALJ will deem admitted the authenticity of each exhibit submitted before the hearing unless a party either files written objection and serves it on all parties or shows good cause for failure to do both.

(c) In class II civil penalty proceedings under 33 U.S.C. 1321(b)(6), each exhibit introduced by an interested person must be marked, and filed and